# Guidelines for disinterment licence applications in emergencies

**Introduction**

Disinterment involves the removal of a body from its burial place (whether a cemetery, urupā or other place of burial). Burial ground managers and urupā trustees may urgently need to disinter graves, or to remove the deceased to a safer location if an urupā or burial ground is at risk of flooding or erosion. After a flooding event (or other disaster), graves may be damaged and deceased exposed or washed out of graves. As part of restoring the urupā or burial ground, some or all graves may need to be relocated to a safer site.

Under section 51 of the Burial and Cremation Act 1964 (“the Act”) removal of a body is prohibited unless a licence is granted by the Minister of Health. Section 51(1) of the Act provides that:

*It shall not be lawful to remove from its burial place any body, or the remains of any body, buried in any cemetery, Māori burial ground, or other burial ground, or place of burial, without licence under the hand of the Minister and except in accordance with such conditions as he may prescribe.*

In practice, the Minister’s power to issue disinterment licences has been delegated to the Director of Public Health, Manatū Hauora.

Because the Act does not specify an administrative procedure for making decision on emergency disinterment licences, the following guidelines are intended to assist the Director of Public Health to assess applications consistently and transparently.

They are also to assist public health staff, urupā trustees and burial ground managers who may be responding to risks to urupā and burial grounds in an emergency, or repairing and restoring damaged graves. Application of the guidelines may depend on the circumstances of an individual application.

A disinterment licence is NOT required to restore graves where the deceased do not need to be disinterred (i.e., replacing cover around and over the grave, repairing and replacing headstones etc).

A disinterment licence is also NOT required if the deceased have already been exposed because of the event and is being returned to their resting places. If the deceased are being laid back to rest in a different burial ground, the Registrar-General of Births Deaths and Marriages must be informed (s. 44 of the Births, Deaths, Marriages and Relationships Registration Act 2021).

**Applying for an emergency disinterment licence**

An application form to apply for a licence for emergency disinterment is attached at **Appendix 1**. Applications must be in writing and may be made by anyone but, in an emergency, are usually made by the urupā trustees, cemetery or burial ground manager.

Applications should be submitted online to the local office of the National Public Health Service, addressed to the health protection officer, or to notifyenvhealth@health.govt.nz Applications should be clearly marked as ‘urgent’ in the subject line.

The licence fee will be waived for an emergency response.

**Disinterment application requirements**

***Assessment of the application by a health protection officer.*** The health protection officer will assess the submitted documentation to ensure that it is complete, review the application and prepare a report.

***Next of kin of the deceased.*** In an emergency situation, consent of the next of kin is not required but the urupā trustees or burial manager should ensure the next of kin are informed if the deceased has been relocated to a new burial site.

***Consent of cemetery operator, burial ground or urupā trustees.*** The consent of the cemetery operator or of the burial ground or urupā trustee(s) must be obtained before a disinterment can proceed. When obtaining consent, the applicant should ask the operator or trustees to confirm the burial site is not a historic or war grave under the care of the New Zealand Government.

For disinterments from an urupā, the consent of the urupā trustees should be included. Consent from the kaumātua/kuia of the urupā should be included after the consent of the trustees has been obtained. If the remains are to be re-interred in another urupā, the consent of the trustees and kaumātua/kuia of that urupā should also be shown.

***Reason for the disinterment.*** The application must state the reason for the disinterment. Examples of reasons may include the need to relocate the deceased to a better site to avoid the risk of erosion or flooding, the need to repair the grave or adjacent graves, etc.

***Application to be made under oath.*** The licence application must include a sworn statement from the applicant that the information contained within it is true and correct, and be witnessed by a Justice of the Peace, serving Police Officer, or Court official. An example of statutory declaration is attached at **Appendix 2**.

**Safety of Disinterments**

The person(s) undertaking the disinterment are responsible for ensuring that the disinterment is legally, safely, and properly carried out, with decency and due respect to the deceased and adjacent burial sites. It is essential that no one is put at risk during disinterments, including from erosion and subsidence.

WorkSafe New Zealand has published good practice guidelines for excavations that provide practical guidance to manage excavation health and safety risks. The Excavation Safety - Good Practice Guidelines’ can be found at: <https://www.worksafe.govt.nz/topic-and-industry/excavation/excavation-safety-gpg/>

**Registrar-General to be notified when body removed or disposed of**

Where the body is not returned to the same plot, the licence holder must give full details as to where and how the body was disposed of to the Registrar-General for Births, Deaths, and Marriages at the Department of Internal Affairs (as required by section 44 of the Births, Deaths, Marriages and Relationships Registration Act 2021).

# Appendix 1 - Application form

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| **Application for disinterment licence in an emergency** |
| This application form must accompany all applications for a disinterment licence and is to be sent to the health protection officer at the local public health service or to notifyenvhealth@health.govt.nz Note “Urgent” in subject line. |
| **Name of applicant or agent** |  |
| **Relationship to the deceased** |  |
| **Postal address** |  |
| **Street address** (if different from above) |  |
| **Phone number** (must be available outside business hours) |  |
| **Email** |  |
| **Full name of the deceased**(include names of all deceased that are known but if not known use descriptions such as “x number of unnamed deceased”) |  |
| **Burial location**(street address or physical location) |  |
| **Consent** of cemetery operator or urupā trustees or burial ground trustees  |  |
| **Confirm the burial site is not a historic or war grave** |  |
| **Reason for disinterment** |  |
| **Kaumātua/kuia**(if deceased is buried in an urupā) | **Name** | **Authority** |
|  |  |

Dated at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_

Signature of applicant/agent: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Appendix 2 - Statutory declaration

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| **Declaration – Oaths & Declaration Act 1957**  |
| I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, ( insert full name of applicant) (insert occupation)of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, do solemnly and sincerely declare that the  (insert location where you reside)statements made in the accompanying application are true and correct. I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.Declared at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_ (insert location) (insert date) ( insert month) (insert year)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Signature of Applicant |
| **Declared before me**:**Name:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_A person authorised under section 9 Oaths and Declarations Act 1957 to take this declaration.**Designation:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Stamp:**(Optional)**Signed:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**Date:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

A declaration made in New Zealand must be made before:

1. A barrister or solicitor of the High Court
2. A Justice of the Peace
3. A notary public
4. The Registrar or a Deputy Registrar of the Supreme Court
5. The Registrar or a Deputy Registrar of the Court of Appeal
6. The Registrar or a Deputy Registrar of the High Court or a District Court
7. Some other person authorised by law to administer an oath
8. A member of Parliament
9. A person who is a fellow of the New Zealand Institute of Legal Executives and is acting in the employment of a practising barrister and solicitor of the High Court
10. An employee of the New Zealand Transport Agency - Waka Kotahi - authorised for that purpose by the Minister of Justice - Te Tāhū o te Ture - or an employee of Public Trust authorised or an officer in the service of the Crown or of a local authority authorised for that purpose.